

David and Paula Burry  
1145 Skalkaho Hwy  
Hamilton MT 59840  
02-03-2002

Ravalli County Commissioners:

Jim Rokosh  
Greg Chilcott  
Alan Thompson  
Kathleen Driscoll  
Carlotta Grandstaff

Dear Commissioners:

We were furnished with a copy of The Streamside Setback Committee's Interim Streamside Setback Zoning Regulations dated February 1, 2008 and strongly recommend the commission not approve these regulations.

If these regulations are adopted in present form they will remove private property rights of current streamside property homeowners by restricting the use and enjoyment of our homes and property. These regulations will have the same negative impact on considerations of future streamside property purchases by lowering property values and reducing their desirability of ownership.

The original purpose for considering streamside setbacks are obvious, to prevent building a new residence dangerously close to a stream or in a flood plane.

This issue became a lightning rod for some area residents during November 2006 after Pigman Construction Company began construction on a large new home located adjacent to Skalkaho

Creek at Rainbow Ridge Rd and Skalkaho Hwy.

Somewhere in this process the original concept of developing a streamside setback for the construction of new residential homes has been lost, and expanded to include current homeowners with streamside properties.

The Streamside Setback Committee has developed a set of regulations containing, vague definitions, arbitrary setback requirements, ambiguous permitted and prohibited uses, variances, enforcement actions, and harsh violations and penalties recommendations. These recommendations are extreme and unreasonable and reflect the personal interests of a small group of people who are attempting to dictate to and remove the private property rights of all Ravalli County citizens.

Section 1 Title: Relates to interim streamside zoning regulation concerning construction and others activities near streams and rivers. The wording "others activities" is non specific, very broad based and left to open interpretation.

Section 2 Authority: States it is in response to the "emergency" existing in Ravalli County as defined in resolution 40.

One listed intent was to protect homebuilders who build too close to a stream from potential loss of their homes and associated damage to neighboring properties from flooding conditions, and relieve the county of potential lawsuits. If that intent is legitimate why are septic system permits issued to property owners who are outside the committee's proposed streamside setback requirements and yet located within a flood plane?

A good example of this situation are properties and homes located on both sides of Skalkaho Hwy below the big ditch approx' milepost three.

**Section 3 Purpose:** Relates to zoning regulations managing the construction of “permanent structures and certain other activities” on land adjacent to streams and rivers in Ravalli County.

The terms “permanent structures and other activities” are non specific, very broad based, and left to open interpretation.

**Section 4 Intent and Scope:** All structures located within a setback, and existing on the effective date of this Regulation are exempt from the provisions contained herein. All activities normally associated with agriculture, division of water, recreation, and normal home site activities are exempt from the provisions of this regulation. Who determines the definition of “agriculture and normal home site activities for the citizens of Ravalli County”. Are these definitions subject to a greater and more restrictive interpretation in the future?

**Section 6 Definitions of Agricultural Use:** Outlines grazing and cropping to produce food, feed, and fiber commodities, including the use of all equipment normally used for such purposes including motorized equipment. Is this the sole definition of agricultural use? For example, would a person who chooses to raise game birds for sport be in non compliance?

**Section 8 Permitted Uses:** A homeowner is limited on the size of remodeling of their homes to no more than 50% larger up to 1000 sq ft larger than the original structure. In the case of a very small home or cabin this regulation would not allow much of an addition. Expansion of a residence would only be allowed one time unless a Variance is granted by the Ravalli County Board of Adjustments. A homeowner within a proposed setback may very well be completely out of a flood plane and still not guaranteed a variance would be granted. Is that reasonable?

**In Section 9 Prohibited Uses and Activities Within A Setback:** A

current homeowner would be prohibited from constructing a Barn, Greenhouse, Garage, Pole Shed, Hay Shed, Tractor Shed, Commercial Fruit Stand Shed, or any outbuilding within a setback. Section 9 is in direct contradiction of aforementioned Section 4 which states these structures are permitted.

Removal of native vegetation and replacement with grasses is also prohibited irregardless of square footage desired.

In Section 11: Variances to any of the proposed regulations are allowed upon positive findings following specified criteria, adding another layer of regulation upon the property owner.

In Section 14: Violations and Penalties are punishable by up to 6 months incarceration and or up to a \$500.00 fine . The potential for this section to be abused would be ever present and pit neighbor against neighbor. Citizens would become criminals with police records. Recommendations like these should remain in George Orwell novels and not Ravalli County Zoning. They demonstrate careless thinking, overreaching, and disregard of private property rights.

Members of the Ravalli County Commissioners Office are also citizens with private property rights.

Each of you must ask yourself, do I really want to give up my private property rights to the personally interested few who are driving recommendations like these, above the liberty of all?

The correct approach to this issue should be based on a scientific study that establishes where flood planes and likely areas of flooding exist which may preclude construction of new homes or change the way they must be built.

The issue of any potential flood damage liability against Ravalli

County can effectively be addressed by wavier at the purchase of a sanitary permit.

We request the Ravalli County Commissioners NOT APPROVE the current proposed Streamside Zoning Regulations and revisit the original concept of developing reasonable zoning which is scientifically based for the creation of streamside setbacks which specifically limit the scope of regulation to the construction of new residential homes in flood plane areas.

Sincerely,

*David Burry Paula Burry*  
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